No. 80-1124

In the Supreme Court of the United States

OCTOBER TERM, 1980

CALVIN BEGAY, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the Court of Claims properly dismissed petitioners' claims for damages on the ground that petitioners had declined to testify in the administrative hearing on their claims or to make timely objections to hearing procedures and that, accordingly, the administrative decision denying those claims for lack of proof was not shown to be arbitrary and capricious, unsupported by substantial evidence, or contrary to law.

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OPINIONS BELOW

The opinion of the Court of Claims ordering that an administrative hearing on petitioners' claims be held within 90 days (Pet. App. 12A-20A) and its order granting the government's motion to dismiss (Pet. App. 1A-9A) are unreported.

JURISDICTION

The judgment of the Court of Claims was entered on June 27, 1980. A timely petition for rehearing was denied on October 3, 1980 (Pet. App. 10A-11A). The petition for a writ of certiorari was filed on January 2, 1981. The jurisdiction of this Court is invoked under 28 U.S.C. 1255(1).

STATEMENT

The petitioners, 11 Navajo girls and their parents or guardians, filed suits in the Court of Claims on October 17, 1977, alleging a right to compensation under Articles I and VI of the Treaty of June 1, 1868, between the United States

and the Navajo Tribe, 15 Stat. 667, 669 (Pet. 2-5). Article I of the Treaty provides in pertinent part (15 Stat. 667):

> If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington city, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also to reimburse the injured persons for the loss sustained.

Article VI provides for education and schooling for Navajo children and stipulates, *inter alia*, that a competent teacher will be furnished who will "faithfully discharge his or her duties as a teacher." 15 Stat. 669. Petitioners alleged that, while students at the Teec Nos Pos Boarding School on the Navajo Reservation (administered by the Bureau of Indian Affairs), the girls were each sexually abused and assaulted by male teachers, counsellors, or faculty aides at the school.

Seventeen days prior to filing suit, on September 30, 1977, petitioners had submitted claims for some $10 million in damages to the federal director of the Navajo Reservation, with copies sent to the Assistant Secretary of the Interior, who today stands in place of the Commissioner of Indian Affairs under the Treaty (Pet. App. 2A, 14A-15A). Asserting that 17 days did not provide sufficient time for proper administrative consideration by the Interior Department, the government moved to dismiss the petitions on the ground that petitioners failed to exhaust their administrative remedies (*id.* at 15A). On January 26, 1979, the Court of Claims, noting the Treaty requirement of administrative consideration (*id.* at 17A), suspended further court proceedings for a period of 90 days to enable the Assistant

Secretary to make a decision on petitioners' claims (*id.* at 19A) (*Begay* I).

On March 9, 1979, after the Court of Claims issued this order, the Assistant Secretary wrote petitioners' counsel, informing him that "the [petitioners'] claims do not sufficiently inform us of what actually happened, including when the alleged incidents occurred and what damages, if any resulted" (App., *infra*, 1a).[1] He further stated (*ibid.*) that a hearing would be held on March 28, 1979, before a hearing officer from the Department's Office of Hearings and Appeals, and that it would be limited to, *inter alia*, "receipt of testimony and documents relating to the matters indicated above." After noting that the attorney from the Department's Field Solicitor's Office would cross-examine those witnesses whom petitioners' counsel presented, the Assistant Secretary added (*id.* at 2a) that "[b]ecause of the age of the minor [petitioners] and the nature of the incidents in which they were allegedly involved, the hearing will be closed to the public, and the presiding officer will take every reasonable precaution to minimize possible adverse affects [*sic*] of the hearing" upon those called to testify.

On the scheduled day, the hearing was held at the Navajo Reservation, but petitioners presented no witnesses; instead petitioners' counsel served a letter on the Department's attorney announcing petitioners' refusal to present any testimonial evidence (App., *infra*, 7a). The hearing officer thereafter recommended that the claims be denied for lack of proof (Pet. App. 4A). The Assistant Secretary accepted this recommendation and formally denied the claims, stating in part (App., *infra*, 9a):

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[1] "App., *infra*" refers to the appendix to this brief, in which we have reproduced the Assistant Secretary's letter of March 9, 1979, and his final decision, which was communicated in a letter to petitioners' counsel dated April 28, 1979.

> Since the only way these claims of sexual abuse can be established is through the testimony of the minors who claim they occurred and since you continue to refuse to permit them to testify with respect to these matters, we are precluded from ascertaining the facts needed to prove the claims. We have no alternative, therefore, but to deny the claims for want of proof. They are hereby so denied.

The case then returned to the Court of Claims, where the petitions for damages were dismissed on the government's motion (*Begay* II) (Pet. App. 1A-9A). The court held (Pet. App. 2A, 5A-9A) that petitioners had failed properly to avail themselves of opportunities for challenging the recommended decision and the hearing procedures when the case was pending before the Assistant Secretary and that, accordingly, they had failed to exhaust their administrative remedies. The court also noted that, since the decision of the Assistant Secretary was "binding" under Article IV of the Treaty (15 Stat. 668), it could not grant de novo review of the claims; instead the court considered whether the Assistant Secretary's denial of the claims for lack of proof was "arbitrary and capricious, unsupported by substantial evidence or contrary to law" (Pet. App. 4A-5A, 8A). Concluding that the decision was not improper under those tests, it dismissed the petitions (*id.* at 8A-9A).

ARGUMENT

Petitioners contend that the Court of Claims erred in approving the Assistant Secretary's denial of their claims for inadequate proof. More specifically, they assert that the proof they offered should have been deemed adequate to entitle them to prevail (Pet. 12-15, 18-19, 26-28) and that the hearing procedures denied them due process (Pet. 20-26, 29). These contentions are without merit, but in any event, the questions raised have little significance beyond the unique circumstances of this case and, accordingly, do not warrant review by this Court.

1. Petitioners are asking the United States to pay millions of dollars in damages for injuries allegedly inflicted on the minor petitioners in the manner reported in their affidavits. Even granting that the denial of the man accused as the principal malefactor was a "bald denial" (Pet. 27), the Assistant Secretary not unreasonably believed that he should not pay out large sums of the government's money until he at least had more detailed information concerning what actually happened. Testimony by the minor petitioners, subject to cross-examination, with "every reasonable precaution to minimize possible adverse affects [*sic*] of the hearing" (App., *infra*, 2a) was a reasonable means of securing an adequate basis for the Assistant Secretary's decision.

Contrary to petitioners' suggestion (Pet. 12-15), the Court of Claims' decision in *Hebah* v. *United States*, 428 F. 2d 1334 (1970) ("*Hebah* I") and in *Begay* I do not establish that the submission of written evidence, not supplemented by testimony subject to cross-examination, adequately proves their claims and entitles them to damages. In *Hebah* I, the court found that the written proof submitted by the plaintiff under a treaty provision resembling Article I in the present case was sufficient to warrant a trial of plaintiff's factual contentions, not an immediate decision on her claims. 428 F. 2d at 1340. The Commissioner of Indian Affairs had failed to act in the matter or to concede that the plaintiff was entitled to file such claims, and the Court of Claims deemed the plaintiff to have exhausted her administrative remedies. *Ibid.* Accordingly, issues raised by the claims were tried by a Court of Claims trial commissioner, who heard testimony by witnesses and assessed their credibility before recommending that the claims be denied. *Hebah* v. *United States*, 456 F. 2d 696, 698, 710 (1972) ("*Hebah* II"). In *Begay* I, the Court of Claims concluded that the present petitioners had presented "sufficient information for the Interior Department to go forward to investigate the treaty claims" (Pet. App. 16A-17A). The

court accordingly disapproved the Department's delay in conducting such an investigation and reaching a decision; but, after rejecting the option of "considering the claims to have been administratively denied through unreasonable delay" (*id.* at 17A), the court gave the Assistant Secretary of the Interior 90 days in which to reach a decision on the claims. While it is true, as petitioners assert (Pet. 16-17), that the court did not order the Assistant Secretary to hold a hearing, it in no way suggested that he was precluded from holding such a hearing to gather the evidence needed for his decision; and as we have suggested, given the nature of petitioners' claims, it was reasonable for him to seek the testimony of the minor petitioners.

2. Petitioners' contention that they were the victims of unfair hearing procedures is similarly without merit. Instead, as the Court of Claims found, it was their "attorney's litigation strategy" that "made a mockery" of the hearing (Pet. App. 5A) and his "multiple derelictions" that "amount[ed] to a virtual failure to prosecute" and that warranted a finding that they had failed to exhaust their administrative remedies (*id.* at 8A).

The Assistant Secretary's letter of March 9, 1979, informed petitioners that their written proofs were inadequate, and his remarks concerning the scheduled hearing clearly indicated his expectation that petitioners would supplement their proof with testimony, subject to cross-examination by the Department's Area Field Solicitor. Had petitioners any doubts about this, had they wished to specify conditions under which the minor petitioners would testify, or had they objected to the hearing date as giving them inadequate time to prepare, they were free to communicate these concerns to the Assistant Secretary. They failed to do so. Thus their contentions that their claims were unfairly subjected to an "evidentiary rule never disclosed to [them] before or at the hearing" (Pet. 25-26) and that they

were not adequately apprised of the procedure to be followed (Pet. 24) are groundless.

Petitioners do not dispute the Court of Claims' findings (Pet. App. 8A) that they failed to make timely objections to the hearing procedures as announced in the Assistant Secretary's March 9, 1979, letter and failed to take advantage of opportunities to file proposed findings of fact with the hearing officer and to request modifications of her decision after it was issued. Instead, they focus on what they contend was an improper submission to the Assistant Secretary by the Department's Area Field Solicitor after the hearing (Pet. 22-24). While it is true that the Field Solicitor submitted factual material concerning the alleged sexual abuse incidents and previous investigations of those allegations, it is not the case that the Assistant Secretary rested his decision to deny the claims on the evidence. Indeed, it is plain that, with one exception, the Secretary considered the factual representations in a way that aided petitioners, since he viewed them as supplemental evidence in support of the claims, which nevertheless still left him "with insufficient proof" to warrant paying damages (App., *infra*, 9a). The exception was the Assistant Secretary's apparent acceptance (*id.* at 8a) of the Field Solicitor's assertion that petitioners' representatives have always taken the position "that the federal government was to have no access to the [minor petitioners] or their families." Petitioners may dispute this, but they do not deny their failure to testify at the March 28 hearing or to seek to make any arrangements to testify under appropriate safeguards at the hearing; hence this factual dispute is not material to the Assistant Secretary's denial of their claims for lack of proof and it is thus not material to the Court of Claims' determination (Pet. App. 8A) that the Assistant Secretary's denial of those claims was not shown to be "arbitrary and capricious, unsupported by

substantial evidence or contrary to law." Accordingly, the Court of Claims properly granted the motion of the United States and dismissed petitioners' claims.[2]

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[2]Because, under Article IV of the Treaty, the Assistant Secretary's decision was to be "binding," it is questionable whether the Court of Claims could review the decision on the merits; and it is clear that there would be no entitlement to de novo consideration of treaty claims. Thus petitioners were denied no rights by the standard of review employed by the Court of Claims. Petitioners attempt to support their contention (Pet. 29) that they are entitled to a trial de novo with cases that do not concern administrative decisions made under laws or treaties making them "binding" and that do not remotely support this argument. In *Brown* v. *United States*, 396 F. 2d 989 (Ct. Cl. 1968), a military pay case, the court concluded, although "judicial review limited to the evidence adduced before the agency is the usual practice," it was proper to consider evidence not presented to the administrative decisionmaker where the administrative hearing scheme was inadequate because of lack of opportunity for oral testimony, examination of witnesses, and cross-examination. *Id.* at 993, 995. In *Bray* v. *United States*, 515 F. 2d 1383, 1394-1395 (Ct. Cl. 1975), also a military pay case, the court found that the administrative procedure did not comport with due process where the serviceman was not allowed to cross-examine witnesses against him. Petitioners, however, are not seeking an opportunity to give oral testimony and to cross-examine other witnesses whose testimony would be used to rebut their claims; they argue that they should prevail without giving such testimony. In *Moore-McCormack Lines, Inc.* v. *United States*, 413 F. 2d 568 (Ct. Cl. 1969), the court reserved decision of the question whether it could review the merits of a decision by the Maritime Subsidy Board made "final" by statute; but it sent the case back to the Board because the plaintiffs had unfairly been denied access to the factual data and the reasoning on which the Board's decision was based. Here, as noted, the Assistant Secretary's decision to deny petitioners' claims rested on his determination that their proof was insufficient because of their failure to offer oral testimony by any of the minor petitioners; this reasoning is not secret and does not depend on undisclosed factual matters.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

ANTHONY C. LIOTTA
Acting Assistant Attorney General

JACQUES B. GELIN
KAY L. RICHMAN
Attorneys

MARCH 1981

DOJ-1981-03

APPENDIX

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAR 9 1979

Alan R. Taradash, Esquire
P. O. Box 306
Window Rock, Arizona 86515

Re: *Calvin Begay, et al.*, and related cases v. *United States*, Nos. 505-77 through 515-77, in the United States Court of Claims

Dear Mr. Taradash:

Since the court entered its order dated January 26, 1979 in the above-captioned cases we have reviewed the material which we have on them. As a result of this review we find that the proof of claims made to date and the information otherwise available to us respecting the plaintiffs' claims do not sufficiently inform us of what actually happened, including when the alleged incidents occurred and what damages, if any resulted.

In order to afford plaintiffs an opportunity to provide such additional factual information on these matters as they may care to offer, a hearing before a presiding officer of the Office of Hearings and Appeals, Department of the Interior has been scheduled for 9:00 a.m., March 28, 1979 in Window Rock, Arizona. The hearing will be held in the Conference Room of the Division of Education, Bureau of Indian Affairs in the Old Club Building (Building No. 3).

Since the hearing will be entirely for fact finding purposes, it will be limited to receipt of testimony and documents relating to the matters indicated above, plus any evidence which

plaintiffs may care to introduce which they believe establishes that the persons involved in the incidents are "bad men among the whites, or among other people subject to the authority of the United States," within the meaning of Article I of the treaty with the Navajo Tribe of Indians of June 1, 1868, 15 Stat. 667.

You will, of course, be permitted to call and examine witnesses. Those witnesses will be subject to cross-examination by William Back, Esquire, Field Solicitor's Office, Window Rock. Because of the age of the minor plaintiffs and the nature of the incidents in which they were allegedly involved, the hearing will be closed to the public, and the presiding officer will take every reasonable precaution to minimize possible adverse affects [*sic*] of the hearing upon any minor who may be called upon to testify therein.

Mr. Back will not make any direct presentation, but in addition to cross-examining witnesses, he may provide evidence to the presiding officer which he believes clarifies evidence presented by the plaintiffs.

After the hearing the presiding officer will submit findings to me, with a copy of those findings simultaneously furnished to you and Mr. Back. Any modifications which you believe should be made in those findings must be submitted

to me within 10 days after your receipt of them. Thereafter I will make the final determinations of the Department of Interior on the plaintiffs' claims.

Sincerely,

/s/ Forrest J. Gerard
Assistant Secretary—Indian Affairs

cc: Director, Office of Hearings & Appeals
Attn: Frances Patton
William Back, Esq.
Field Solicitor
Window Rock, Arizona
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Attn: Thomas J. Riley, Esquire

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 28 1979

Alan R. Taradash, Esq.
DNA-Peoples Legal Services, Inc.
P. O. Box 306
Window Rock, Arizona 86515

Re: Administrative determination of claims filed in *Begay* v. *United States*, Ct. Cl. Nos. 505-77 through 515-77

Dear Mr. Taradash:

On January 26, 1979, the Court of Claims suspended further proceedings in the above-captioned case for a period of 90 days to permit the Assistant Secretary of Interior to make a decision on plaintiffs' application under Article I of the Treaty of 1868 between the United States and the Navajo Tribe, 15 Stat. 667.[1] This letter constitutes that determination.

On October 17, 1977, the present litigation was instituted after your office sent a letter dated September 30, 1977 to the Navajo Area Director asking that within two weeks

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[1]Article I of the Treaty reads, in pertinent part:

* * *

"If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indians Affairs at Washington city, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also to reimburse the injured persons for the loss sustained."

* * *

specific responses in writing be made to the demands stated in the letter. The September 30, 1977 letter demanded immediate indemnification on behalf of 11 minor Navajo girls in the total amount of $4,371,000 for alleged sexual abuses of the girls by three employees of the Bureau of Indian Affairs at the Teec Nos Pos Boarding School on the Navajo Indian Reservation. In addition, there was demanded on behalf of the girls' parents damages in amount "yet to be determined at trial."[2] The abuses are alleged to have occurred on unspecified dates between 1967 and 1976.

Prior to the filing of the September 30, 1977 demands with the Navajo Area Director, there had been filed under the Federal Tort Claims Act claims on behalf of six of the minor plaintiffs. On June 10, 1977, all six claims were denied by the former Field Solicitor for this Department at Window Rock, Arizona. Four of the claims were denied because they were not filed within the two-year period required by the Federal Tort Claims Act. Two of the claims were denied on the grounds that the claimants failed to provide convincing evidence that the alleged acts occurred and that the claimants further failed to make a sufficient showing that the United States was negligent.

Following the filing of the present litigation on October 17, 1977, there was a delay in submitting our recommendations to the Department of Justice because of temporarily lost mail. Based on those recommendations, the Department of Justice filed a motion to dismiss on the ground there had not been any exhaustion of administrative remedies. In the alternative, since the Court of Claims in *Chambers* v. *United States*, No. 742-76, involving a claim under a

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[2]The total amount of damages sought in the litigation on behalf of the minors and their parents appears to be $10,152,000.

similar treaty provision had suspended proceedings in order to permit a Secretarial determination, a similar suspension was suggested for this case to permit such a decision. Without an indication from the Court that it would be proper to do so and in the absence of evidence from you that you desired us to proceed with an administrative determination while the litigation was pending, we perceived no basis for proceeding in the matter while the government's motion awaited decision.

You were not immediately notified after the January 26, 1979 order of the Court that there would be a hearing because, if possible, we wished to avoid having to hold a hearing at which the minor complainants would have to testify. But as related in our March 9, 1979 letter to you, (Attachment No. 1) on review we found that the proof of claims then made and the information otherwise available to us respecting the plaintiffs' claims did not sufficiently inform us of what actually happened including when the alleged incidents occurred and what damages, if any, resulted. Provisions, as set out in the March 9 letter, were made to protect any minor that you might call to testify in the hearing.

You appeared at the March 28, 1979 hearing at Window Rock, Arizona before Frances A. Patton, Special Assistant to the Director, Office of Hearing and Appeals. Pursuant to my March 9 letter, Mr. William Back of the Field Solicitor's Office, Window Rock also appeared. At the hearing you stated your position that under Article I of the 1868 Navajo Treaty the Government has an affirmative duty to investigate claims presented to it and that the plaintiffs have provided sufficient information to the Government to enable it to perform its duty under the treaty. Except for documents relating to the establishment and operation of the Navajo Victims' Rights Commission and other documents relating to the Navajo Tribe's exclusion from the

Navajo Indian Reservation of George DeBoef, the employee of the Bureau of Indian Affairs allegedly involved in most of the incidents complained of, no additional evidence was offered by you.

The reasons why you declined to present any testimony at the March 28 hearing are set forth in a letter dated March 28, 1979 from you to Mr. Back (Attachment No. 2). Its pertinent paragraphs read:

> "We do not intend to present any additional *testimonial* evidence at the hearing which Mr. Gerard, Assistant Secretary—Indian Affairs, scheduled for today; notice of which was received by me 15 days ago. Aside from the fact that the Department's conduct in the handling of these 'Teec Nos Pos cases' continues to be an egregiously willful breach of its trust responsibility to my clients and their Tribe, we will present some additional information at the hearing for the Department's consideration. All other information which we currently possess has either been given to the previous Field Solicitor, Mr. Itschner or has been offered to him and rejected. There may indeed be other relevant information in the possession of your office or other government employees. However, notwithstanding our repeated requests for access to such information, we have been given not one report or other bit of information which the government may possess relevant to my clients claims.
>
> Regarding any direct contact with our clients and their families, our position remains unchanged: *viz* neither you nor any other government employee, agent, investigator or independent contractor hired by or working for the government is to talk to, contact, or in any way whatsoever solicit information from any clients. We have in the past offered to Mr. Itschner to arrange for interviews with our clients in the presence of their

psychiatrists using a Navajo interpreter in whom the children have trust. The reasons for this have also been previously explained; namely, the psychological damage to the children, in having to relive the terror by retelling of the sexual abuse suffered by them at the hands of the government's employees, is as great or greater than that which they originally suffered from the incidents themselves. Given the Department's and your office's adversarial disposition to our clients from the beginning of these cases, this precaution is only reasonable.

The Department of Interior has all the information necessary to make its administrative decision. We expect it forthwith."

Mr. Back has responded to these statements about the information provided to or offered to the previous Field Solicitor, Mr. Itschner. His response is set out on pages 2-3 of his letter of April 12, 1979 to me, (Attachment No. 3) furnished in accordance with my March 9 letter. As stated in the April 12 letter, Mr. Itschner denies that offers were made to the federal government to interview the girls other than the offer to have several of the girls testify at the DeBoef removal hearing, which as explained in the letter has never been held. Mr. Itschner further stated that the position of the claimants' representatives has always been that the federal government was to have no access to the claimants or their families.

The time provided you by the March 9 letter in which to submit any suggested modifications of Ms. Patton's findings has expired and we have not received any submittal from you. The findings made April 5, 1979 by Frances A. Patton (Attachment No. 4) are hereby adopted and made part of this decision.

As you were advised by my March 9, 1979 letter, a review of the materials then available to us respecting the plaintiffs' claims was found to be insufficient to enable us to determine what actually happened, including when the alleged incidents occurred and what damage, if any, resulted. The additional information furnished by you at the March 28 hearing as well as the information provided by Mr. Back in his April 13, 1979 letter to me, still leaves us with insufficient proof of the claims.

Since the only way these claims of sexual abuse can be established is through the testimony of the minors who claim they occurred and since you continue to refuse to permit them to testify with respect to these matters, we are precluded from ascertaining the facts needed to prove the claims. We have no alternative, therefore, but to deny the claims for want of proof. They are hereby so denied.

Not only does this want of proof extend to the establishment of the facts constituting the alleged injuries but also to the failure to establish that the employees of the Bureau of Indian Affairs who are alleged to be responsible for plaintiffs' injuries are "bad men" within the meaning of Article I of the 1868 Navajo Treaty.

As related at page 5 of Ms. Patton's findings, you took the position at the March 28 hearing that the alleged wrongs committed upon the children and their families are the kind of conduct that compels a conclusion that Messrs. DeBoef, Clah and Ashley are bad men in the concept of the treaty. This reading of the treaty deprives the term "bad men" of any significance since under it the mere fact of the commission of a wrong makes the wrong-doer a "bad man." This would change the meaning of the treaty so that instead of being liable for wrongs committed by bad men, the United States would be liable for all wrongs.

In *Hebah* v. *United States*, 456 F. 2d 696 (1972), the Court of Claims did not determine whether the alleged wrong-doer was, under a treaty provision similar to the one involved here, a bad man, but only because the Court concluded no wrong had been committed. It is clear had the conclusion been that a wrong was committed that the Court would have then determined whether the wrong-doer was a bad man, in order to determine whether compensation under the treaty provision would be due the wronged party.

Sincerely,

/s/ Forrest J. Gerard
Assistant Secretary—Indian Affairs

Attachment

cc: Director, Office of Hearings & Appeals
Attn: Frances Patton
William Back, Esq.
Field Solicitor's Office
Window Rock, Arizona
Thomas J. Riley, Esq.
Land and Natural Resources
Department of Justice
All w/c attachments